

## Minutes of the May 20, 2011 Regular Council Meeting

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Call to Order and Flag Salute at 3:30 pm by Vice Mayor Todd Smallwood.

Council in Attendance: Carmean, Bunting, Smallwood, Langan, Tingle and Weistling  
Absent: Serio (Excused)

### **President's Report**

- Vice Mayor Smallwood noted that the Town has suffered the loss of two long-time residents, Peggy Steele and Bob Clower. The Town sends its sympathies to the families; both Mrs. Steele and Mr. Clower will be missed. Council Member Weistling noted that Public Works staffer, Bryan Reed, has recently lost his mother and extended sympathy to the family.
- Mr. Smallwood advised that Beach Replenishment will begin soon. He urged citizens to support the effort as it enhances both property values and the Fenwick Island way of life.

### **Topics for Discussion and Possible Action**

#### 1) Consideration of Comcast Phone Service – Town Manager Abbott

Mr. Abbott explained that the Budget Committee believes that current phone rates are no longer competitive. Mr. Abbott contacted Comcast for a quotation on switching Town Hall service over to them since the Town already has Comcast Cable for its internet service.

#### DISCUSSION

Mr. Gary Diskin, Business Account Executive, explained that the current dial tone transfers to Comcast. Comcast equipment is compatible with current lines and, in response to a question from Council Member Tingle, the Town will retain its current phone numbers. Comcast has worked with the Towns of Preston and Princess Anne and is in talks with the Town of Berlin for phone service. Mr. Abbott advised that the Town will realize a savings of a little over \$4,000 a year. Council Member Carmean asked if Comcast would guarantee the annual savings over the life of the 36-month contract being proposed. Mr. Diskin advised that he can make that guarantee. Public Participation: Mr. Mike Quinn (5 W Houston St) asked if this was for Town Hall only and if the savings was \$4,000 total or \$4,000 per year. Council Member Smallwood noted that this is just for the Town Hall and Mr. Abbott advised that these are estimated savings (\$4,000 per year) over the life of the contract.

Motion to authorize Town Manager to enter into a contract with Comcast for phone service – Council Member Tingle

Second – Council Member Langan

Vote: (6-0)

Motion passed

#### 2) Public Works Building Roof – Town Manager Abbott

Mr. Abbott advised that there have been earlier discussions about replacing the roof on the Public Works Building but that the issue is now more immediate in nature due to the pending installation of solar panels on the roof. Mr. Abbott asked that council authorize up to \$9,000 to complete the needed repairs.

Motion to approve the expenditure of up to \$9,000 for re-roofing the Public Works Building roof and that the work commence as soon as possible – Council Member Weistling

Second – Council Member Carmean

#### DISCUSSION

All members of Council agreed that this project needs to be done.

Vote: (6-0)

Motion passed

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### 3) Rules and Regulations for Special Events – Council Member Weistling

Council Member Weistling noted that the Town currently has Resolution #37-2009 on its books regulating special events. The Charter and Ordinance Committee wishes to propose an ordinance regulating Special Events and suggested changes to the authorizing party from the Chief of Police to the “Town” in #2, 3, and 6 (copy of resolution is attached to the end of these minutes). Regarding #7, the Committee suggests requiring bathroom facilities for events that may extend over a longer period of time, such as the Town Bonfire. Regarding #9, the Committee suggests changing Chief of Police and/or Town Council to “Chief of Police/Town.” No action is needed today; the Committee wants to bring this matter to Council’s attention for future consideration.

#### DISCUSSION

Council Member Carmean suggested other references to Town Council should be changed to “Town.” Council Member suggested references to Chief of Police or Town Council should all be changed to “Town.” Council Member Weistling suggested that #5, events of greater than 75 attendees, should require Council approval and Chief of Police Boyden suggested that #6, regarding the issuing of parking permits, could be Chief of Police or Town Official.

### 4) Resolution #52-2011 Fee Schedule

Motion to approve #52-2011 Fee Schedule – Council Member Carmean  
Second – Council Member Langan

#### DISCUSSION

Council Member Smallwood noted that the Ambulance Fee has increased to \$41 as discussed previously and that the Special Events Fee has changed to \$100 deposit and \$100 fee.

Vote: (6-0)

Resolution #52-2011 Fee Scheduled approved

### 5) Approve FY12 Operating and Capital Budgets

Motion to approve FY12 Operating and Capital Budgets – Council Member Carmean  
Second – Council Member Bunting

#### DISCUSSION

Council Member Smallwood thanked the Budget Committee members for their work. Town Manager Abbott advised that the Operating Budget now references the Town Charter and that this budget shows only the current (FY12) budget without reference to the previous year budget. There is a difference of \$3,000 over all from this year to last. The Capital Budget shows reserve and non-reserve items and the Budget Committee recommendations. There is no increase in taxes. Council Member Carmean noted that the \$5,000 budget item to replace the holiday bulbs includes bulbs and fixtures/circuit breakers that have been damaged due to age and the elements.

Vote: (6-0)

FY12 Operating and Capital Budgets approved

#### **Approval of Minutes:**

Motion to Approve the Minutes of April 15, 2011 Meeting - Council Member Carmean  
Second: Council Member Langan

DISCUSSION – None

Vote: (6-0)

Minutes approved.

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## **Treasurer's Report:**

Council Member Bunting advised that his report is included in the Council packet. The Town should complete the year under budget.

Motion to accept the Treasurer's report – Council Member Tingle

Second – Council Member Langan

## **DISCUSSION**

None

Vote: (6-0)

Treasurer's Report accepted.

## **Town Manager Report:**

- Mr. Abbott reported that The Wave newspaper recently reported an incorrect value for the yard waste contract. That contract is \$13,620 not \$68,010 as reported by the paper.
- The Town website has been updated to reflect the yard waste pickup schedule and regulations. Containers should be placed on the curb and not in the trash corral. Mr. Abbott asked that residents cover their trash containers.
- DNREC asks citizens to report sick/dead birds in an effort to track possible West Nile Virus infection.
- The Town will sponsor a Memorial Day Observation on Saturday, May 28 at 10 AM. Lt. Col. Richard T. Tanner, Commandant, and the Delaware Marine Corp League Detachment will be on hand.

## **DISCUSSION**

Council Members Smallwood and Carmean reported that the trash hauler has picked up their yard waste. Mike Quinn (5 W Houston) reported that his was not picked up. Town Manager Abbott asks that anyone who has been missed for trash/recycle/yard waste collection should call the Town right away so the error can be corrected. Mary Pat Kyle (1205 Bunting Ave) asked about limits to the number of bags of yard waste that can be put to the curb. Mr. Abbott advised that there is no limit to the number of bags but that no bag/bundle may weigh more than 50 pounds each.

## **Department Reports:**

- Building Official – Report included in meeting packet. Mrs. Schuchman advised that she, Bryan Reed, and Jim Purnell attended a two-day Hurricane Readiness workshop.
- Public Works - Report included in meeting packet.
- Beach Patrol – Tim Ferry reported that his department is on schedule with hiring activities. He expects twelve (12) new guards this year. They will place the lifeguard stands on the beach next week.
- Police Department - Report included in meeting packet. Nothing more to add.

## **Committee Reports:**

- Beach Committee – Becka McWilliams reported that the Annual Bonfire will be on July 2 (rain date July 3) with Council permission. The bonfire will be on the Dagsboro Street beach. In the past the Town has provided entertainment, glow sticks and advertising. The Beach Committee will ask Council to provide funding for these activities. The committee will rent a port-o-pot and will sell t-shirts and snow cones; games will be included as well as a 50/50 raffle. The committee thanked Gardner Bunting and Mr. Wilgus for providing electricity last year and expressed its hope that they can do so again this year. Heavier power cords are needed in order to provide additional lighting. The possibility of using a generator was discussed. The committee would like permission to use the Town ATV in order to transport the DJ and his equipment. It is a new DJ this year (same cost). Mrs. McWilliams also reported that the Fenwick Freeze was excellent with approximately 200 people in attendance.
  - Council Member Carmean asked for the Bonfire Budget. Mrs. McWilliams estimated the following costs: DJ (\$425); Glow Sticks (\$450); Advertising (\$130); Port-o-pot (Unknown at this

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time). The Committee will approach Council at the June 24, 2011 meeting to request funding up to \$1,000 for these expenses.

- Council Member Weistling asked if the beach replenishment project will cause a problem since Dagsboro Street is the staging area. Town Manager Abbott advised that the configuration of the pipe on the beach should not interfere with the bonfire. The project should be complete by July 2 at which time the pipe will still be in place but there will not be any replenishment activity. In response to a question from Mary Pat Kyle, Mr. Abbott advised that the replenishment project will begin with equipment setup on June 4 and pumping on June 11.
  - Council Member Langan expressed concern that the last time the beach was replenished pipes and trucks were on the Dagsboro Street beach. Mrs. McWilliams suggested possibly moving the bonfire to a different beach; Tim Ferry suggested that the guards create walk-overs so that the pipes are not a problem. Council Member Carmean suggested that the committee be prepared to alter its plans if the replenishment project is incomplete. Council Member Weistling advised that the Town will have a better idea of progress on the project by the time of the June 24 meeting.
- Environmental Committee – Council Member Carmean advised that Buzz Henifin has arranged for a Geothermal Energy Workshop on May 26, 2011 at 2PM. The Committee has scheduled a Solar Energy Workshop for Saturday, June 18 and a MERR Presentation for Saturday, July 9.
  - Public Safety Building – Council Member Langan advised that the bids will be opened on May 31, 2011 at 2:00 PM not May 24 as previously noted.

## **Planning Commission: Winnie Lewis**

Mrs. Lewis presented the Planning Commission's recommendations for Open Space Preservation (copy attached).

## **Charter & Ordinance**

- Proposed First Reading Chapter 116 Peace and Good Order – Special Events – Council Member Weistling  
Council Member Weistling asked Council to consider a change to Chapter 116 to add 116-8 Special Events; 116-9 Permit Required; 116-10 Violations and Penalties and 116-11 Applicability; Severability.  
Motion to accept Proposed First Reading – Council Member Weistling  
Second – Council Member Tingle

## **DISCUSSION**

Council Member Weistling advised that the need for the change came out of the Budget Committee meetings regarding fees for Special Events. The Charter and Ordinance Committee discussed a definition of special events and considered breaking it down into special events regular and special events non-profit. Mr. Weistling asked that the change show "non-profit special events" so that non-profits are not charged a fee; however, all petitioners should fill out a special events application. A non-profit organization or group of individuals organized to benefit the community should be exempt from the fee.

- Council Member Smallwood thanked the Council for considering an exemption for a group of individuals organized for the benefit of the community. He cited Lori Martin's Annual Thanksgiving Day Turkey Trot and Hans Banziger's Annual Block Party as examples of events that foster good will. The cost to the organizer(s) is great and the value of the good will should be considered when determining if they should pay the Special Events fee charged to private individuals.
- Council Member Carmean asked if using the "community benefit" criteria might come into question at some time in the future. Council Member Weistling advised that not including the "special event – non-profit" could cause a misunderstanding as to who is required to obtain a permit. All persons/groups must apply to the Town for a permit; not all will be charged the fee. Council Member Carmean suggested that 116-11B be more specific.
- Council Member Bunting advised that he believes that the more defined the ordinance is, the better for future Councils.
- Council Member Smallwood asked if there are any other special events besides the Fenwick Freeze, Turkey Trot, Block Party and the Bonfire. Council Member Carmean added the Garden Club. Council

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Member Weistling advised that there are a couple of events on the schedule but they private and are not open to the public. Audience member Lynn Andrews (1205 Schulz Rd) added FISH and the Fenwick Island Yacht Club to the list.

- Council Member Smallwood noted that there seems to be some confusion between use of town hall and special events. Council Member Weistling added that the ordinance regulates outdoor activities such as but not limited to weddings, races, block parties, etc. and/or results in closing of any of the Town's streets or use of public property.
- Council Member Carmean questioned the small 4<sup>th</sup> of July parade in town and whether that will be included. Council Member Tingle noted that it is small and short; Council Member Weistling added that it does not require closing any streets.

Motion to include amendments to the reading and to accept the amended First Reading – Council Member Weistling

Second – Council Member Langan

Vote: (6-0)

First Reading passed

- Proposed Second Reading Chapter 160-5A Zoning (Use Regulations) Markets – Council Member Weistling  
Council Member asked that the Proposed Second Reading be included in these minutes.

Motion to accept Second Reading Chapter 160-5A Zoning (Use Regulations) Markets – Council Member Weistling

Second – Council Member Bunting

## DISCUSSION

Council Member Weistling advised that this is intended primarily to allow individual members of the Fenwick Island Farmers Market to sell locally produced items in the commercial zone in town on vacant property.

Vote: (6-0); Carmean – yes; Bunting – yes; Smallwood – yes; Weistling – yes; Tingle – yes; Langan – yes

Motion to accept Second Reading Chapter 160-5A Zoning (Use Regulations) Markets passed.

- Proposed Second Reading Chapter 160-5A Zoning (Use Regulations) Auction Houses – Council Member Weistling

Council Member Weistling asked that the Proposed First Reading be included in these minutes.

Motion to accept Second Reading Chapter 160-5A Zoning (Use Regulations) Auction Houses – Council Member Weistling

Second – Council Member Langan

## DISCUSSION

Council Member Weistling advised that the Town has had a request to reintroduce auctions as an allowable use with certain restrictions and regulations that were not present in the past when auction were allowed. Council Member Carmean advised that she will vote yes with the provision that council adds a restriction to that the auction of live animals not be allowed. She asked that this be addressed at the June meeting. Council Member Bunting agreed with that suggestion. Council Member Weistling noted that this will be fine-tuned at future meetings.

Vote: (6-0); Carmean – yes; Bunting – yes; Smallwood – yes; Weistling – yes; Tingle – yes; Langan – yes

Motion to accept Second Reading Chapter 160-5A Zoning (Use Regulations) Auction Houses passed.

## Old Business - None

## New Business – No Action to be Taken

None

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## **Public Participation:**

- Bea Stock (6 W Georgetown St) – commented that many year-round people on her block will appreciate the addition of a Mobi mat on their block. Council Member Smallwood advised that the Town has not yet decided on the location(s) for mats but will be happy to consider Mrs. Stock's request.
- Lynn Andrews (1205 Schulz Rd) – noted that cell phones need to be added to a "do not call" list in order to be removed from any telemarketer lists. The phone number to call from your cell phone is 1.888.382.1222.

## **Upcoming Events and Meetings:**

- Council Member Smallwood announced all meetings and events.

Motion to Adjourn to Executive Council to consider personnel matters: Council Member Tingle

Second: Council Member Bunting

All in favor to adjourn to Executive Session (6-0)

Public Session closed at 4:38 PM

Council returned to Public Session at 4:50 PM.

Motion to proceed as discussed in Executive Session regarding public safety – Council Member Carmean

Second – Council Member Bunting

DISCUSSION – None

Vote: (6-0) to proceed as discussed in Executive Session

Motion to adjourn – Council Member Langan

Second – Council Member Bunting

Vote: (6-0)

Meeting adjourned at 4:53 PM.

Respectfully submitted,

Agnes DiPietrantonio, Town Clerk

For Diane Tingle, Secretary



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Dear Mr Win Abbott,

Date: 4.8.2011

This letter is in reference to our meeting in regards to the possible phone line conversion of the Town of Fenwick to Comcast. The current charge per phone line is \$24.95 each. This price is subject to change after April 30, 2011.

If you do decide to make the conversion, I can lock the price in for 36 months. I will also be able to apply a 11% discount for 'non-profit status' to your overall bill.

Based on your current 7 lines the total phone bill would be approx. \$179.65 (includes a \$5.00 equipment fee and does not include any discount). This does not include taxes and other normal misc charges. All of our lines include unlimited long distance throughout North America, along with 24 calling features.

Your current services with Comcast will not change and the pricing would remain the same based on your agreement with Comcast Corp.

If you have any questions please do not hesitate to give me a call.

Sincerely,

Gary D. Diskin  
Business Account Executive

## NOTICE

On June 26, 2009 The Fenwick Island Town Council  
Passed the Following Resolution #37-2009

### **Town of Fenwick Island "Special Event" Rules & Regulations**

1. If a permit has been issued for a "Special Event" that includes a bonfire on the beach, no bonfires may be permitted when a state burning ban is in effect or when wind is in an easterly direction to protect houses and sand dunes (all other "Rules for Bonfire" also apply).
2. A "Special Event" permit is issued by approval of the Fenwick Island Chief of Police and may be issued only to a person 18 years of age or older. No event may begin prior to 8:00 a.m., nor end after 11:00 p.m. The person to whom the permit is issued shall be held responsible for the conduct of those in attendance and any activities in connection with the "Special Event" as well as for the satisfactory cleaning and restoration of the general area of the "Special Event."
3. The Chief of Police shall require a deposit before issuing a permit for a "Special Event" which shall be returned if the general area of the "Special Event" is satisfactory cleaned and restored.
4. A "Special Event" permit may not be issued to parties larger than 75 attendees without the approval of Town Council. Police coverage will be required for all events larger than 75 attendees and the permittee will incur an hourly expense for such coverage.
5. The fee for a "Special Event" permit shall be for a maximum of 75 persons in attendance. Upon approval by Town Council for attendees exceeding 75 persons, there will be an additional fee for each additional group of 25 persons exceeding the 75 person limit. "Special Event" permit fees are non-refundable.
6. The Chief of Police will authorize no more than six (6) temporary parking permits for the date of the "Special Event." These may be used at the beach-end of the designated street the event is to be held and must be displayed hanging from the rear view mirror of a vehicle. Arrangements for additional parking are the responsibility of the permit holder.
7. No outdoor speakers, lighting or bathroom facilities are permitted without the approval of Town Council.
8. For a "Special Event" held on the beach, no glass containers are allowed. No alcoholic beverages are allowed from May 15 to September 15. A "Special Event" shall be permitted only during hours when lifeguards are not on duty.
9. The permittee agrees to be responsible for any damage or injury to person or property and any violation of Town ordinances directly resulting from the issuance of this permit. Proof of insurance may be required as determined by the Chief of Police and/or Town Council.
10. Damages to rights-of-way, infrastructure, parking areas, dunes or any property owned by the Town of Fenwick Island shall be repaired by the Town of Fenwick Island Public Works Department at a cost determined by the Town and at the expense of the permit holder.
11. Any violation of the above "Rules & Regulations" or any Town ordinances will result in a one-year suspension of the permittee to obtain a "Special Event" permit.

Attest:

Agnes D. DiPietrantonio, Town Clerk

Audrey Serio, President of Council

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## NOTICE

On May 20, 2011 The Fenwick Island Town Council  
Passed the Following Resolution #52-2011  
Fee Schedule

### L - ANNUAL BUSINESS LICENSE FEES

- (1) Retail Merchant (100-3-A)  
(a) \$150 + .08 per square foot of Floor Space.
- (2) Building or Service Contractor (100-3-B)  
(a) \$50 if Revenue made in Town is less than \$1500 yearly.  
(b) \$150 if Revenues made in Town are more than \$1500 yearly.  
(c) \$5 for additional license decal.
- (3) Rental Landlord (100-3-C)  
(a) \$150 for Residential and Commercial rentals.  
(b) \$150 + \$7.20 per sleeping unit for motels/hotels.
- (4) Vending Machines (100-3-D)  
(a) \$25 for newspaper & postage.  
(b) \$50 for dispensing machines; such as drink, food, candy, ice etc.  
(c) \$50 children's amusement.  
(d) \$75 music.  
(e) \$250 amusement & games.

### B - BUILDING PERMIT FEES

- (1) 3% of estimated construction cost - \$50 minimum. (61-8)
- (2) Permit for approved building move - \$350. (61-12-B)
- (3) Renewable Energy building permit fee - 2% ECC or \$100 whichever is less (160-7)

### S - SIGN PERMITS FEES (136-6-c)

- (1) Multiple use identification sign - \$200 (135-6-c)
- (2) Single use identification sign \$2 per lineal foot up to maximum of \$100. (135-6-c)
- (3) All other sign permits - \$20 (135-6-c)

### P - PARKING PERMIT FEES (112-11-P)

- (1) Daily weekday - \$10
- (2) Daily weekend & holiday - \$20
- (3) Weekly - \$60
- (4) Weekend - \$50 (3-day)
- (5) Monthly - \$200
- (6) Summer - \$400
- (7) Replacement of lost permit (property owner & purchased) - \$50
- (8) Extra Resident Hang Tag (blue) - \$50

### C - COPY FEES

- (1) Xerox or computer printout copy - \$ .50
- (2) Audio cassette/CD/DVD- \$25
- (3) Town Code Book - \$300
- (4) Town Merchant Address List - \$50
- (5) Property Owner Address List - \$75
- (6) Printed Property Owner Address Labels - \$150

### F - FINANCIAL FEES

- (1) Charge for checks returned for insufficient funds - \$50
- (2) Late payment of License Fee - \$75
- (3) Collection letter from Town Legal Counsel - \$150

### T - TRASH COLLECTION FEE (127-2)

- (1) \$299 per Household per year.

### H - HEARING FEES

- (1) Board of Adjustment & Zoning - \$750 (160-10-B)
- (2) Council Hearing/ House Move - \$275 (61-12-A)
- (3) Council Hearing/ Sub-Division - \$275 (142-2-A)
- (4) Council Hearing/ Code Variance - \$275 (160-10-B)

### O - OTHER FEES

- (1) Beach Bonfire Permit - \$25 fee & \$100 deposit (73-2-B)
- (2) Animal Impoundment - \$100 + \$60 per day (48-2)
- (3) Villalon Hall Rental - \$20 fee + \$40 deposit
- (4) Ambulance Service - \$41 per household per year
- (5) Special Events - \$100 fee + \$100 deposit plus \$25 each additional group of 25 exceeding 75 person limit. \$100 hr fee Police Coverage events exceeding 75 persons.



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## **R - Real Estate Tax**

(1) \$1.92 per 100

Attest:

\_\_\_\_\_  
Agnes D. DiPietrantonio, Town Clerk

\_\_\_\_\_  
Audrey Serio, President of Council

\_\_\_\_\_  
Diane B. Tingle, Council Secretary

*I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed with the noted exception by the President and Council at a meeting on May 20, 2011, at which a quorum was present and voting throughout and the same is still in force and effect.*

Town of Fenwick Island  
Planning Commission  
Recommendations for Open Space Preservation  
May 2011

The Fenwick Island Comprehensive Land use Plan of November 2007 defines “open space” as undeveloped land or public land reserved for parks, non-motorized paths, recreation, natural uses and/or preservation from any future development. The preservation and enhancement of the natural environment is an essential theme that runs through all sections of this document. This plan builds on past successes in open space preservation and environmental efforts to create a Green Infrastructure that protects the beach, bay and areas in between.

At the time the plan was developed, only one Town-owned park existed. The Town determined to develop a long term plan for preserving, protecting, and in some cases, acquiring critical open space throughout Town. Since then the Town has been fortunate to acquire additional land for a park and open space preservation. The Planning Commission has undertaken the task of suggesting a basis for an Open Space Master Plan for acquiring/protecting/utilizing these lands.

## **Recreational Use**

The Planning Commission established a Parks and Recreation Advisory Group to assist it with determining recreational/open space needs. That *ad hoc* committee, under the direction of Commissioner Lois Twilley, identified several areas which might serve as rest opportunities for walkers:

- Oceanside Bunting Avenue on or about James Street
- Oceanside Bunting Avenue on or about Indian Street
- Oceanside Bunting Avenue on or about Cannon Street
- Bayside end of Georgetown Street at Bora Bora
- Bayside Schulz Road between Windward Way and Ebb Tide Cove
- Bayside Dagsboro Street near intersection of Wright Street
- Bayside Dagsboro Street at Schulz Road
- Bayard Street Extended at intersection of Bayard St
- Bayside Avenue near Bayside Drive intersection
- Oyster Bay Drive end

Most, if not all, of these locations have sufficient area to place a park bench and trash receptacle; they all appear to be in the Town right-of-way. In addition, the Planning Commission suggests that Council explore placing “doggie” trash bag stations and hand sanitizers at most of these locations. The Environmental Committee recommends that long-term maintenance of these items be a priority consideration before making any decisions.

## **Open Space Preservation**

It is the Planning Commission’s understanding that the Town owns a small parcel of land at the end of Bunting Avenue and Lewes Street. This small, sandy area appears to be used by residents for an informal dog walk. We also understand that many small children have adopted this section as a play area. The Planning Commission recommends that a park bench be placed there and that dogs owners be required to clean the area when they leave. We do not recommend any other development/restrictions at this time.

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## Signage

The Parks and Recreation Advisory Group suggested enhanced signage to point out cultural and scenic areas in town. Members suggested the following as “scenic overlook” areas:

- Bayside Avenue near Bayside Drive intersection
- Oyster Bay Drive end
- Schulz Road north end

It is our understanding that the Schulz Road location is under development and, therefore, would not be available for public use. Planning Commissioners would like signage to hi-lite a few culturally significant areas such as Bali Hai, Pittsburgh Beach, etc.

Regarding signage, everyone is agreed that the Town suffers from an over-abundance of signs. The Planning Commission recommends that Council review existing signs, removing any that are out-of-date, and consolidating others to make a new, more-comprehensive sign. Again, a long-term maintenance program should be in place to insure that signs are kept current and readable.

## Pedestrian Plan

The Planning Commission endorses Council’s plan for sidewalks along SR1; we do not recommend sidewalks along side streets. We believe that the sidewalk plan currently being proposed will provide a safe alternative for walkers and promote a healthier life-style.

## Parks

Regarding Town parks, the Planning Commission endorses the recommendations of the Cannon Street Park Task Force. We recommend that the current park continue as a gathering place and a playground.

## “Neighborhood” Creation

A key element for reinforcing a traditional town pattern is to create neighborhoods within the Town. Parks and open spaces are important principles that can be used to create neighborhoods. Fenwick Island has one park located adjacent to Town Hall and a second, planned, park adjacent to the Public Works Building. The beach strand along the Town’s eastern boundary is the major recreational area during the summer. There may be opportunities for additional park and open spaces to create a system of civic spaces. Each civic space should be located within an easily walkable distance. The attached map illustrates the Town’s potential for five civic spaces located within walking radii.

## Involving the Public

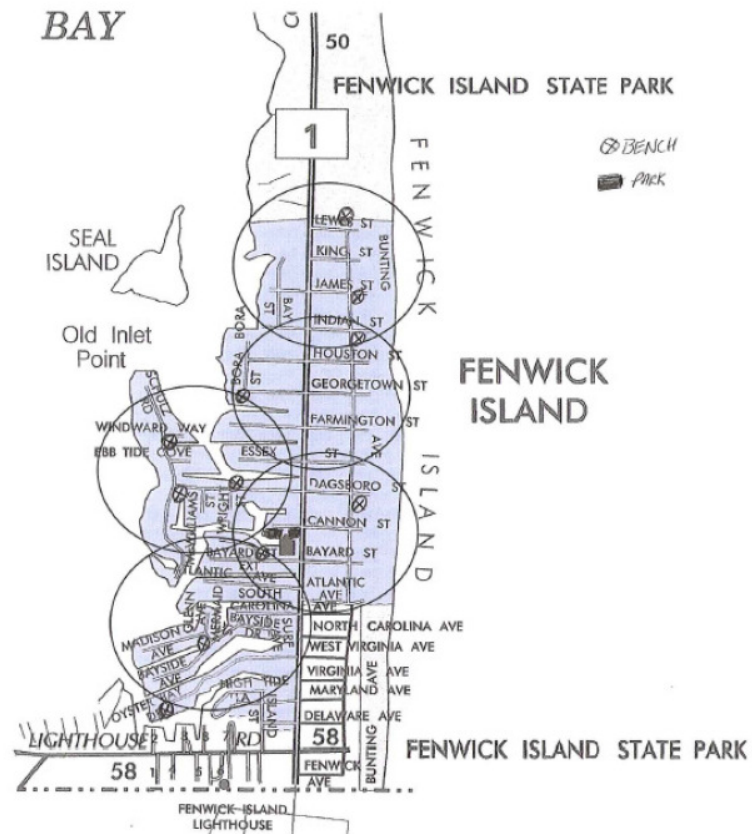
The Planning Commission recommends creating a public information process to determine which open space lands the public wishes to see preserved. The Town should utilize citizen participation for maintenance of this open space land. This participation should come from garden clubs, nonprofit organizations, educational institutions, or other organizations geared toward civic-minded endeavors. In addition, the Town should research funding and preservation options through grants, conservation easements, fundraising, etc. in order to create a long term acquisition and preservation plan.

The Planning Commission forwards this recommendation as part of its continuing commitment to promote implementation efforts of the Comprehensive Land Use Plan of November 2007. The Planning Commission hopes that Council will continue building on past successes in open space preservation and environmental efforts and will use our recommendation as the basis for a comprehensive Open Space Master Plan.

Respectfully submitted,

Winnie Lewis

Chair, Fenwick Island Planning Commission





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Proposed First Reading May 20, 2011

Proposed Second Reading June 24, 2011

Approved First Reading – April 5, 2011  
Proposed Second Reading – May 20, 2011

## CHAPTER 116, PEACE AND GOOD ORDER:

### ADD:

#### Article II:

##### §116-8. Special Events

###### A. Definitions:

###### SPECIAL EVENT –

1. All outdoor activities such as, but not limited to, weddings, races, block parties, etc., held on Town and/or State property including but not limited streets, parks, beaches and any Town public property.
2. Any event that requires closure of streets, parking areas and/or any Town public property.

###### SPECIAL EVENT – NON-PROFIT –

1. Any event sponsored by a legally established non-profit organization or group of individuals that is sponsoring the event for community benefit without making profit an intent and open to the public.

##### §116-9. Permit required.

- A. Permits for a "Special Event/Special Event Non-Profit" shall be required for any outdoor event held on public property and shall be issued only to a person 18 years of age or older. The person to whom the permit is issued shall be held responsible for the conduct of attendees, any activities in connection therewith and for satisfactory restoration of any area(s) involved with the "Special Event".
- B. The Town shall require the applicant complete a "Special Event Application". A fee and deposit will be charged for any Special Event. Such fees are set annually by resolution by Town Council. There will be no fee for any Special Event- Non Profit.
- C. "Rules & Regulations" will accompany a "Special Event" permit. Such "Rules & Regulations" are set by resolution of the Town Council.

##### §116-10. Violations and penalties.

Any person violating the provisions of this Article shall be fined \$100 and costs for each and every offense.

##### §116-11. Applicability; severability.

- A. The provisions of this Article are in addition to, and not in derogation of, the provisions of any other applicable laws including but not limited to the provisions of Chapter 73 (Burning, Outdoor), Chapter 77 (Disorderly Conduct) and Chapter 107 (Noise).
- B. The provisions of Article II are severable. If any section, subsection, sentence, clause or phrase of this Article or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this Article shall remain in full force and effect.

Posted; May 24, 2011

## Chapter 160 – Zoning

### Existing:

#### Chapter 160-5 A (Use Regulations):

- (35) Market, food (except live poultry).

### Proposed:

- (35) Farmers Market.

#### a) Definitions.

1. Fenwick Island Farmers' Market – The nonprofit organization consisting of community volunteers and local growers, which has been sanctioned by the Town Council of the Town of Fenwick Island and the Delaware Department of Agriculture.
2. Farmers Market – An open outdoor market setting whereat fresh agricultural items, horticultural items, baked goods, seafood and/or other fresh food items, that have been locally grown, produced or processed by vendors who are members of the Fenwick Island Farmers' Market, may be sold.
3. Vendors – Persons or entities selling only agricultural, horticultural, baked goods, seafood and/or other fresh food items that they themselves have grown, produced or processed. Individual vendors operating outside the established hours of the Fenwick Island Farmers' Market will be permitted to sell local items purchased from members of the Fenwick Island Farmers' Market.
4. All vendors must be members of the Fenwick Island Farmers' Market. All vendors must also receive a business license from the Town of Fenwick Island to operate individually outside the established hours of the Fenwick Island Farmers' Market. Proof of membership in the Fenwick Island Farmers' Market must be submitted at the time of application for a business license. No license fee shall be charged for members of the Fenwick Island Farmers' Market.
5. Rules and Regulations of the Fenwick Island Farmers' Market – The rules and regulations imposed by the Fenwick Island Farmers' Market nonprofit organization.

- b) Permitted Locations. Farmers Markets will be only permitted on vacant, unimproved lots, which shall be at least 100' x 100' in size (either individually or combined), in the Commercial Zone in Town.

#### c) Regulations.

1. If a vendor is not the record owner of the vacant, unimproved lot where the Farmers Market will be located, the vendor must submit to the Town Manager at the time of licensing written proof that the record owner consents to the operation of a Farmers Market on the vacant, unimproved lot in question. If a vendor is the record owner of the vacant, unimproved lot in question, then proof of ownership must be submitted to the Town Manager at the time of licensing.
2. Vendors shall comply with all local, county, state and other health laws, rules or regulations pertaining to their operation.
3. Vendors must provide for the removal of all waste generated by or in connection with the operation of the Farmers Market. Such waste removal shall include, but not be limited to, the removal of all recyclable materials for the designated purpose of recycling.
4. Farmers Markets shall be operated on a seasonal basis only, from May 1 through October 31 of any calendar year.
5. All meat, seafood, dairy and baked products sold at a Farmers Market must meet the safety and quality control requirements of the Rules and Regulations of the Fenwick Island Farmers' Market.
6. No live animals of any kind, except seafood, may be sold, kept or slaughtered at a Farmers Market.

POSTED: April 5, 2011

# Minutes of the May 20, 2011 Regular Council Meeting

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*Approved First Reading – April 15, 2011*

*Proposed Second Reading – May 20, 2011*

## Chapter 160 – Zoning

### Chapter 160-5 A (Use Regulations):

#### Add:

#### **(61) Auctions**

##### **a) Definitions:**

(1) Auction House. Any premises within the Commercial Zone where personal or real property is sold by auction to the highest bidder by a Professional Auctioneer.

(2) Professional Auctioneer. Every person engaged in the business of crying sales of real or personal property on behalf of other persons for profit. A Professional Auctioneer must be licensed as an auctioneer by the State of Delaware and the Town of Fenwick Island. All Professional Auctioneers must be insured to the extent required by the State of Delaware and Delaware law.

(3) Real Estate Auction. An auction whereat any real property within the Town of Fenwick Island is sold to the highest, qualified bidder. Real Estate Auctions must be conducted by a Professional Auctioneer and may be, but are not required to be, held on the real property being sold at auction.

##### **b) Regulations for Auction Houses and Real Estate Auctions:**

- (1) Auctions must adhere to all Federal and State laws and regulations.
- (2) All auctions must be conducted by a Professional Auctioneer licensed by the State of Delaware and the Town of Fenwick Island.
- (3) Any and all personal property being sold at auction must be stored and displayed inside the Auction House. No such personal property may be stored or displayed outside of the Auction House.
- (4) No signs or devices which produce noise or sound, or which emit visible smoke, vapor, particles or odor shall be used for advertising purposes or to attract attention.
- (5) A register of all buyers and sellers participating in an auction must be maintained at all times by the Professional Auctioneer responsible for conducting the auction. As part of said register, the Professional Auctioneer must also maintain an accurate list of all real and/or personal property bought and sold, together with a description of said real and/or personal property.
- (6) All auctions must be completed by 9:30 p.m.

c) A license issued by the Town of Fenwick Island to a Professional Auctioneer may be suspended and/or revoked for any violation of the Regulations for Auction Houses and Real Estate Auctions set forth above. Such a suspension and/or revocation may also occur for reasons that include, but are not limited, to the following:

- (1) Misleading or untruthful advertising.
- (2) Flagrant misrepresentation of the quality or existence of the personal or real property being sold at auction.
- (3) Knowingly using false bidders.

(4) Absent a good faith, bona fide dispute, failure to remit payment to the seller of any real or personal property sold at auction and/or failure to transfer any real or personal property sold at auction to the ultimate purchaser thereof.

d) Inspection of Auction Houses. Town officials shall have the power to inspect, during reasonable business hours, any Auction House for the purpose of determining compliance with this §160-5 (61) or any other applicable provision of the Town Code, as well as to determine compliance with State licensing or other regulatory requirements. During any such inspection, Town officials may secure and confiscate any evidence discovered that may be necessary for prosecution under this Chapter. Town officials may, but shall not be obligated to, refer any suspected criminal activity to the proper police authorities.

e) Violations and Penalties. Any person or entity in violation of this §160-5 (61) shall be obligated to pay a civil fine in the amount of \$500.00 for the first violation. Subsequent violations shall be punishable by a fine in such amount of \$1,000.00 per violation. Each day that a violation continues shall be deemed to be a separate and additional violation for purposes of the civil fine imposed hereby. Any appeal of the civil fine imposed shall be lodged with the Fenwick Island Town Council within ten (10) days of receipt of written notice from the Town that the civil fine has been imposed. In the event of an appeal, the appealing party shall be given an opportunity to be heard and to present his case for rescission or reduction of the civil fine before the Town Council. The decision of the Town Council following any such appeal shall be final. Any and all civil fines imposed hereby shall be collectible in the same manner as delinquent taxes and the Town shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection with any such collection effort.